

Message Text

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SUBJECT: CONFERENCE ON INTERNATIONAL WILLS

REFS: A. A-3800 B. TOKYO 7203

GOJ COMMENTS ON DRAFT CONVENTION PROVIDING A UNIFORM
LAW ON FORM OF INTERNATIONAL WILLS, PROVIDED EMBASSY
BY FONOFF, FOLLOW:

QUOTE

1. IT IS UNDERSTOOD FROM THE DRAFT CONVENTION THAT A
WILL EXECUTED IN THE FORM PRESCRIBED BY THE DOMESTIC LAW
OF A CONTRACTING STATE TAKES EFFECT AS AN "INTERNATIONAL
WILL" WHEN IT IS ACCOMPANIED BY A CERTIFICATE TO BE
ISSUED BY AN AUTHORIZED PERSON STATING TO THE EFFECT THAT
THE PROCEDURES PRESCRIBED BY THE CONVENTION HAVE BEEN
COMPLETED. IT IS ALSO UNDERSTOOD THAT SUCH AN INTER-
NATIONAL WILL SHOULD RIGHTLY BE CONSIDERED EFFECTIVE BY
OTHER CONTRACTING STATES IN ORDER THAT IT WOULD ELIMINATE
THE EXAMINATION AS TO WHETHER OR NOT IT MEETS THE RE-
QUIREMENTS OF THE APPLICABLE LAW.

2. HOWEVER, WHEN THERE IS A DISPUTE BETWEEN THE PARTIES
INVOLVED AS TO ITS VALIDITY AS A WILL, THE DECISION OF
A COURT WOULD BE NECESSARY AS TO WHETHER OR NOT THE
WILL HAS BEEN EXECUTED IN THE FORM REQUIRED BY THE
APPLICABLE LAW. IN SUCH A CASE THE CONVENTION WOULD
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PRACTICALLY BE OF LITTLE USE UNLESS THE CERTIFICATE

HAS POWER TO PREVENT SUCH DISPUTE. THE CONVENTION IS
NOT CLEAR WITH REGARD TO THE FOLLOWING POINTS. WHETHER,
IN ORDER TO MAKE A WILL EFFECTIVE AS AN INTERNATIONAL
WILL, THE ATTACHMENT OF THE CERTIFICATE PRESCRIBED
IN ARTICLE 7 OF THE CONVENTION IS REQUIRED OR ANY
OTHER SUITABLE EVIDENCE PROVING THAT THE PROCEDURES
PRESCRIBED WOULD SUFFICE IN THE ABSENCE OF SUCH
CERTIFICATE? IT WOULD BE NECESSARY TO MAKE THESE
POINTS CLEAR IN THE PROVISIONS.
UNQUOTE.
SHOESMITH

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